

§ 4.1601

request that such decisions be objectively reviewed by a party independent of the A-76 decision process.

(b) This appeals procedure is administrative rather than judicial in nature, and does not provide for a judicial review or for further levels of appeal. The decisions of the appeals official are final.

(c) This procedure is intended to protect the rights of all affected parties and, therefore, neither the procedure nor agency determinations may be subject to negotiation, arbitration, or agreements with any one of the parties.

§ 4.1601 Basis for appeal.

(a) An appeal may be based only on a specific alleged material deviation (or deviations) by the agency from the provisions of OMB Circular A-76 or Supplement No. 1 thereto, the "Cost Comparison Handbook." Appeals may not be based on other factors, such as the economic impact of the agency's decision on a community, or other socio-economic issues.

(b) This appeals procedure shall be used only to resolve questions of the determination between contract and in-house performance of a commercial or industrial type requirement, and shall not apply to questions concerning award to one contractor in preference to another.

§ 4.1602 Who may appeal under this procedure.

An appeal may be filed by any affected party, viz, employees of the Federal activity under review, authorized employee representative organizations, contractors, and potential contractors.

§ 4.1603 Appeal period.

An appeal may be submitted at any time within 45 calendar days after announcement of an agency decision regarding the method of performance of a commercial or industrial type requirement.

§ 4.1604 Method of filing an appeal.

An appeal must be in writing, and must be submitted to: Director, Office of Hearings and Appeals, U.S. Depart-

43 CFR Subtitle A (10-1-09 Edition)

ment of the Interior, 801 North Quincy Street, Arlington, Virginia 22203.

[45 FR 75213, Nov. 14, 1980. Redesignated at 52 FR 39525, Oct. 22, 1987. And amended at 67 FR 4368, Jan. 30, 2002]

§ 4.1605 Action by the Office of Hearings and Appeals.

(a) Upon receipt of an appeal, the Director, Office of Hearings and Appeals shall designate an appeals official, who shall process the appeal.

(b) The appeals official shall promptly docket the appeal and send copies of the docketing notice to the appellant, the director or other appropriate official of the bureau or office involved, and the Solicitor of the Department.

§ 4.1606 Department representation.

(a) Upon receipt of the docketing notice, the Solicitor shall appoint counsel to represent the Department in the appeal action, and so notify the appellant and the appeals official.

(b) Within seven calendar days of his designation the Department Counsel shall assemble and transmit to the appeals official a file containing the appealed agency decision and all documents relevant thereto, including the detailed analysis upon which the agency decision was based. At the same time, the Department Counsel shall send to the appellant a copy of the transmittal document, containing a table of contents of the file.

§ 4.1607 Processing the appeal.

(a) The appeals official shall arrange such conferences with the concerned parties as are necessary, including (if requested by the appellant) an oral presentation.

(b) The appeals official may require either party to submit any additional documents, oral or written testimony, or other items of evidence which he considers necessary for a complete review of the agency decision.

(c) All documentary evidence submitted by one party to the appeal action shall be made available to the other party (or parties), except that availability of proprietary information may be restricted by the party holding the proprietary interest in such information.